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ABSTRACT

This study investigated state policy, court litigation, and accreditation standards with respect to the use of time-out as a behavior management strategy in special education programs. The study's emphasis was on existing standards concerning the use of locked time-out rooms and student supervision requirements during the application of time-cut. The first section reviews a sample of applicable state policy on the use of time-out from Arkansas, Pennsylvania, Delaware, Massachusetts, and Kentucky. The second section looks at case law, focusing on a recent briefing paper published by EDLAW, Inc. titled "Disciplining Disruptive Handicapped Students" (K. S. Mehfoud and S. J. Rosenfeld). This paper makes recommendations regarding the use of time-out, such as its inclusion in the student's Individualized Education Program, and also provides specific procedural recommendations for implementing time-out interventions. The third section discusses accreditation standards pertaining to the use of time-out in residential and health care facilities. The paper concludes that most states leave the development of behavior managemen procedures, including time-out, to local education agencies; that time-out rooms should not be locked and the child should be constantly observed while confined to the room; and that it is important to keep consistent data on the frequency of the target behavior to make sure time-out is having its intended effect. (DB)

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ED 389 118

AN OVERVIEW OF STANDARDS AND POLICY ON THE USE OF TIME-OUT AS A BEHAVIOR MANAGEMENT STRATEGY

Project FORUM at NASDSE

In response to increasing interest in the topic of appropriate procedures for managing disruptive behaviors in special education programs, Project FORUM at NASDSE investigated State policy, recent litigation, and accreditation standards with respect to the use of time-out as a behavior management strategy. Specifically, we were looking for existing standards on the use of locked time-out rooms and student supervision requirements during the application of time-out. To assemble information on this issue, FORUM staff reviewed judicial decisions and SEA policy documents; and spoke with SEA staff, Regional Resource Center (RRC) personnel, and leaders in the field of behavior management.

The following summary of information on this topic is divided into three sections. The first section reviews a sample of applicable State policy on the use of time-out. The second section looks at case law, focusing on a recent Briefing Paper published by EDLAW, Inc. entitled, **Disciplining Disruptive Handicapped Students** (Mehfoud & Rosenfeld, 1991). Lastly, accreditation standards pertaining to the use of time-out in residential and health care facilities are discussed.

State Policy on the Use of Time-Out

Through discussions with all the RRCs, it was determined that the majority of States do not have rules or regulation that prohibit the use of locked time-out rooms or require constant supervision of students in time-out. Several States have ruled more generally on the acceptability of time-out as a behavior management strategy and/or have specified appropriate circumstances under which the procedure may be used, including documentation requirements. However, States have tended to leave the development of the time-out procedure itself (e.g., the structure of the room, data collection, data review, monitoring, etc.) to the local education agency. Despite a tendency to leave procedural requirements of time-out under local control, there are States with policies that address the use of locked doors and the necessity of student supervision during the application of a time-out procedure.

Arkansas. Arkansas State special education regulation as of 1985 reads: "Time-out rooms must meet structural guidelines and provide an adult the means of continuously monitoring, visually and auditorially, the students' behavior," and "The [time-out room] door should be such that it cannot be locked."

Pennsylvania. Pennsylvania special education standards issued January, 1990 refer to "locked rooms, locked boxes, other locked structures or spaces from which the student cannot readily exit" as an inappropriate

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aversive technique that may not be used by agencies in educational programs. The Pennsylvania standards do not speak to supervision of students while they are in time-out.

Delaware. Delaware special education regulation as of February, 1990 forbids the use of locked time-out rooms and requires continuous observation of students placed in time-out. However, these requirements are in effect for Delaware's programs for students with autism only.

Massachusetts. Massachusetts' most detailed regulations with respect to time-out appear in the 1986 "Regulations for the Approval Of Private Special Education Schools To Serve Publicly Funded Students". According to these regulations, "Time-out rooms shall not be locked", and students must be observed by staff at least every fifteen minutes. Additionally, staff must be "in close proximity" at all times.

Kentucky. In 1987 the Kentucky SEA developed a document entitled, **Techniques for Discipline of Exceptional Children and Youth**, which was disseminated to LEAs to assist them in developing policies and procedures. Although this document does not address the use of locked time-out rooms, it does state that, "Students should not be placed in a time-out area where they are at any time out of visible sight of the responsible staff person(s)" (p. 15).

Both the Western RRC (WRRC) and the Great Lakes Area RRC (GLARRC) mentioned that several of the States in their regions were examining policy with regard to aversive techniques, behavior management procedures, and/or discipline in general. Ohio, for example, has assembled a task force on the use of aversive techniques. Jean Potter from GLARRC will be putting together a packet for this task force that will include case law, policy letters, research, and existing SEA and LEA policy, some of which may apply to time-out. For more information on this packet, please contact Jean Potter at (614) 447-0844.

Judicial Decisions on the Use of Time-Out

An examination of the **Education for the Handicapped Law Report** revealed no judicial decisions deciding for or against the use of time-out or specifying procedures to be used in its application. However, a recent court case in Kansas (*Hayes ex. rel. Hayes v. Unified School Dist. No. 377*, 877 F.2d 809 [10th Cir. 1989]) found that discipline of a child in a classroom, including time-out, is a "matter that relates to the public education of a handicapped child and therefore falls within the scope of the EHA [IDEA]."

Addressing the *Hayes* decision and the broader issue of discipline as discussed by the Supreme Court of the United States in *Honig v. Doe*, 484 U.S. 305, 108 S.Ct. 592, 98 L.Ed.2d 686, EDLAW recently published a Briefing Paper (Mehfoud & Rosenfeld, 1991) that provides a blueprint to be followed in disciplining the disruptive student with disabilities. Moreover, Mehfoud and

Rosenfeld make several recommendations regarding the use of time-out. First, they suggest that the use of time-out be addressed in the IEP with full disclosure of the procedure to the parents. They explain:

> By handling the consequences associated with the misconduct in the IEP, the school is not imposing a change in placement via discipline but is simply implementing the IEP as written. And by having that program of consequences specified in the IEP, parental consent has already been obtained for the exact discipline that is imposed (p.11).

Mehfoud and Rosenfeld (1991) also provide specific procedural recommendations for time-out. Although they do not speak to the issue of locked doors, they do mention supervision.

> With regard to time-out rooms, a parent should be shown the room, the IEP should describe limits on the use of the room, including factors precipitating its use, a maximum length of stay and frequency of use. **Supervision of the room should always be provided.** Time-out rooms are not an educational program. If a student is spending more time in time-out than in the educational program itself, it raises a clear implication that the basic special education program is no longer appropriate and requires modification. Accordingly, there should be careful monitoring of use of time-out (p. 11) (emphasis added).

Professional Opinion and Acceditation Standards

FORUM staff contacted two Ph.D. psychologists currently supervising behavior management procedures either as an employee or consultant in both private and public residential facilities for persons with disabilities. Both of these professionals stated that they would not design, recommend, or tolerate a time-out procedure that included locking the time-out room door or that required less than constant supervision of the individual while in time-out. They stated three primary reasons for this position. First, it is potentially a very dangerous situation. An aggitated person in time-out may harm him or herself, either intentionally or unintentionally, and not receive immediate attention under those circumstances. Also, it would be easy to "forget" an unattended person in cases of emergency, such as fire. Second, this sets up a situation where staff can use the procedure for their convenience. If staff are allowed to remove a person "causing problems" and also resume their schedule uninterrupted, they are more likely to use this "convenient" procedure under inappropriate circumstances. Lastly, accreditation guidelines under which most facilities operate forbid the use of locked doors and require constant supervision of individuals in time-out.

Standards issued on time-out rooms by Intermediate Care Facilities for the Mentally Retarded (ICF-MR) include Regulation W291 which states:

> (1) A client may be placed in a room from which egress is prevented only if the following conditions are met: ... (ii) The client is under the direct constant supervision of designated staff. (iii) The door to the room is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged.[1]

In addition, health care facilities, usually under the Joint Commission on Accreditation of Health Care Organizations (JCAHCO) standards, are prohibited from using locked time-out rooms and required to have constant supervision of individuals in time-out by these regulations.

Summary

It appears that for the most part States leave the development of behavior management procedures, including time-out, to the local education agencies. Some exceptions to this pattern (i.e., State-level policies) were reviewed for this report. It seems clear from these policies, certain accreditation standards, and professional opinion that time-out rooms **should not be** locked and the child **should be** constantly observed while confined to the room. To conduct a time-out procedure otherwise appears to be against "best practice" and potentially dangerous.

Aside from information on the use of locked time-out rooms and supervision requirements, additional important recommendations regarding time-out were brought to light during this inquiry. First, case law asserts that the use of time-out in the classroom relates to the public education of a child with disabilities and therefore falls within the scope of the IDEA, including its procedural requirements. Consequently, regardless of the specific time-out procedure, it should be specified in the IEP and explained to and approved by the child's parents. Thus, as Mehfoud and Rosenfeld (1991) explain, "When misconduct occurs, the result will be the implementation of the previously agreed upon IEP, rather than a confrontation with the parents over what disciplinary action, if any, should be imposed at that time" (p. 11).

A second set of recommendations deals with other important aspects of the time-out procedure itself. Whether or not time-out is considered an aversive technique, its primary purpose is to decrease the frequency of a target behavior. Therefore, it is extremely important to keep consistant data on the frequency of the target behavior to make sure time-out is having its intended effect. If there is no reduction in the behavior, the procedure should be discontinued. Moreover, if there is no reduction in behavior, often it is due to the quality of "time-in". If an individual's "time-in" consists of undesirable tasks or negative social interactions, time-out can become preferable. Consequently, it

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[1] The use of key or latch locks on time-out rooms is stated as "not permitted" elsewhere in the regulations.

It is critical to the effectiveness of time-out that the regular environment be excluded as possible, including a consistent reinforcement procedure for behaviors incompatable with the target inappropriate behavior.

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